IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

WP(C).No. 417 of 2007(Y)

PETITIONER:

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1. LILLYKUTTY HENNING, W/O. HENNING,
RESIDING AT NEDUMKALLINGAL HOUSE, KATTUNGAL P.O.,
MAVARA CITY,KANTHIPARA VILLAGE,SENAPATHY PANCHAYAT
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

2. JOHANNES HENNING, AGED 27 YEARS,
S/O. HENNING, RESIDING AT NEDUMKALLINGAL HOUSE,
KATTUNGAL P.O., MAVARA CITY, KANTHIPARA VILLAGE,
SENAPATHY PANCHAYAT, UDUMBANCHOLA TALUK,
IDUKKI DISTRICT.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.RENJITH B.MARAR
SRI.DILEEP P.PILLAI
SMT.LAKSHMI.N.KAIMAL

RESPONDENTS:

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1. THE SUB REGISTRAR,
MUNDIYERUMA SUB REGISTRAR OFFICE, IDUKKI DISTRICT.

2. THE DISTRICT REGISTRAR,
IDUKKI, CIVIL STATION, THODUPUZHA.

BY GOVERNMENT PLEADER - ADV. SHRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, JUDGE

WP(C) No. 417 of 2007

Dated this the 5th day of January, 2007

J U D G M E N T

The petitioners, one of whom is a foreign citizen, are married in a church in India on 22/06/2006, as is evidenced from Ext.P2 certificate. They applied for registration of the marriage under the Special Marriage Act before the 1st respondent. The application is obviously filed under Sec. 15 of the Act after solemnization of the marriage under traditional custom, which provides for registration of marriage solemnized other than under the Act. Customery marriage can be registered under Sec. 15, if conditions stated therein are satisfied. According to the petitioners, since the 2nd petitioner is a foreigner, the 1st respondent has declined to receive application for registration. The learned counsel appearing for the petitioner referred to the decision of this court in ***Rajeev Vs. State of Kerala in 2001 (1) KLT 578,*** wherein, following a decision of the Himachal Pradesh High Court, this Court held that, marriage can be registered under the Special Marriage Act, even if one of the parties to the marriage is not an Indian.

2. In the circumstances, the petitioners can register the

marriage under Sec. 15 of the Special Marriage Act. However, since 30 days notice is required for the registration of the marriage, this court has in another decision held that even notice period can be dispensed with if circumstances justify it. In the circumstances, this writ petition is disposed of with a direction to the 1st respondent to receive the application for registration of the marriage from the petitioners and take statement or signature wherever required from the 2nd petitioner, before he leaves the country and then complete the enquiry and issue certificate of marriage after registration of the same to the 1st petitioner or any other person authorized by either of the petitioners.

C.N.RAMACHANDRAN NAIR, JUDGE.

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